

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Dennis E. Hecker,

BKY No. 09-50779

Debtor.

**NOTICE OF HEARING AND MOTION
FOR PROTECTIVE ORDER**

TO: ENTITIES SPECIFIED IN LOCAL RULE 9013-3

1. Randall L. Seaver, the Chapter 7 Trustee herein, moves the Court for the relief request below and gives Notice of hearing herewith.

2. The Court will hold a hearing on this motion at 3:00 p.m. on October 7, 2009, in Courtroom 8 West, before the Honorable Robert J. Kressel, Federal Building, 300 South Fourth Street, Minneapolis, MN 55415, or as soon thereafter as counsel can be heard.

3. Any response to this Motion must be filed and served by delivery no later than October 2, 2009, which is three (3) days before the above date (excluding Saturdays, Sundays and holidays), or be filed and served by mail not later than September 28, 2009, which is seven (7) days before the date set for the hearing (excluding Saturdays, Sundays and holidays) in accordance with Local Rules. **UNLESS A RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion under 28 U.S.C. §§157 and 1334, Fed.R.Bankr.P. 5005, and Local Rule 1070-1. The petition commencing this chapter 7 case was filed on June 4, 2009. The case is now pending in this court.

5. This Motion arises under 28 U.S.C. §1404 and Local Rule 1002-1(a) and is filed under Local Rules 9013-2 and 9013-5. The Trustee requests protective order pursuant to 11 U.S.C. §§107 and 704.

6. Debtor Dennis E. Hecker ("**Debtor**"), through his bankruptcy counsel, has requested that the Trustee share with Debtor all records received pursuant to request of the Trustee. Further, Debtor has requested that the Trustee provide him with copies and exhibits intended to be used in Debtor's 2004 examination, presently set for October 14, 2009, in advance of the hearing. A copy of such a request is attached hereto as Exhibit A.

7. The Trustee believes that his ability to investigate Debtor's complex financial affairs and to recover assets of the estate would be severely prejudiced if Debtor had access to the records received by the Trustee as well as advanced production of his own examination exhibits.

8. The Trustee is concerned that in the absence of a protective order, 11 U.S.C. §704(7) may require him to furnish to the Debtor information received by way of Bankruptcy Rule 2004 and otherwise. The disclosure may undermine the Trustee's efforts to effectively liquidate this estate.

9. Virtually all of the information sought by the Trustee from others directly relates to Debtor's financial affairs about which he should already have knowledge.

10. The Trustee also believes that interested parties exist which may seek access to the Trustee's records for the benefit of the Debtor. Accordingly, until some later time, the Trustee requests that the Court relieve him of all disclosure requests under 11 U.S.C. §704.

11. The Trustee may testify at the hearing of this matter.

WHEREFORE, the Trustee requests an Order of the Court:

1. Granting the Trustee a protective order and holding that information and records received by the Trustee need not be disclosed to the Debtor absent further order of this Court;

2. Suspending the Trustee's obligation to provide information to "interested parties" under 11 U.S.C. §704 until June 4, 2010; and,

3. Such other relief as is just and equitable.

**LEONARD, O'BRIEN,
SPENCER, GALE & SAYRE LTD.**

/e/ Matthew R. Burton

Dated: September 24, 2009

By: _____
Matthew R. Burton #210018
Attorneys for Trustee
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

VERIFICATION

I, Randall L. Seaver, Trustee for the Bankruptcy Estate of Dennis E. Hecker named in the foregoing Notice of Hearing and Motion for Protective Order, declare under penalty of perjury that the foregoing is true to the best of my knowledge, information and belief.

Executed on September 24, 2009

/s/ Randall L. Seaver

Randall L. Seaver, Trustee

407501

Fredrikson

& BYRON, P.A.

Direct Dial: 612.492.7167
Email: cmoyer@fredlaw.com

July 29, 2009

VIA EMAIL

Matthew R. Burton, Esq.
Leonard, O'Brien, Spencer, Gale & Sayre
100 South Fifth Street
Suite 2500
Minneapolis, MN 55042

**Re: Dennis E. Hecker ("Hecker")
Bankruptcy Case No. 09-50779**

Dear Mr. Burton:

I write on behalf of the Debtor to request copies of any documents produced to you (or the Trustee) from the numerous persons and/or entities to whom requests have been made by you and/or the Trustee. Please let me know if you will provide us with copies, and if necessary, I will make arrangements for a copy service.

I look forward to hearing from you.

Very truly yours,


Cynthia A. Moyer

cc: Randall Seaver (via email)

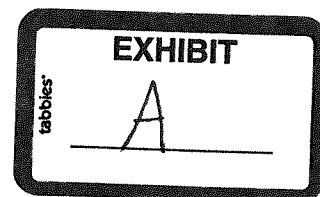
4597536_1.DOC

Attorneys & Advisors
main 612.492.7000
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55402-1425

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7 Bankruptcy

Debtor.

**MEMORANDUM IN SUPPORT OF MOTION
PURSUANT TO 11 U.S.C. §§107 AND 704**

Randall L. Seaver, Trustee (“**Trustee**”), a Chapter 7 trustee, has duties of disclosure pursuant to 11 U.S.C. §704. The Trustee is continuing his investigation of the Debtor's financial affairs and desires to obtain truthful testimony from the Debtor about information collected by the Trustee. If the Debtor can get access to all information collected by the Trustee, he can tailor subsequent testimony and actions in accordance with that knowledge. If the information received could not maintain its confidential nature, the purpose of the investigation could be frustrated.

It appears that such §704(7) is intended to provide a means by which creditors are able to monitor the progress of the bankruptcy case and obtain information from the Trustee regarding matters in the case. The Trustee does not believe that this section is designed to provide a debtor, who provides less than complete information in his Chapter 7 filing, to demand that the Trustee provide him with the fruits of all of the Trustee's investigation of his financial affairs. If that were the case, debtors who have been less than candid could simply disclose limited information in their schedules and then monitor the Trustee's activities through a demand upon the Trustee for “all information received.” The debtor would then be able to engage in activities, and tailor his testimony and activities in accordance with information which he knew that the Trustee had discovered.

By way of example, when Mr. Hecker filed his original statement of financial affairs, he did not disclose the following transactions:

1. In December, 2008, he purchased a 2008 Harley Davidson motorcycle using a check drawn on his personal account in the amount of \$23,590.00. He titled that motorcycle in the name of Northstate Financial Corporation and continued his possession and use of that motorcycle. Affidavit of Randall L. Seaver, Ex. 3.

2. In February, 2009, Mr. Hecker was the registered joint owner of a 2008 Malibu Wavesetter boat. He then caused documents to be delivered to appropriate state agencies transferring his interest in that boat to Northstate Financial Corporation. Again, Mr. Hecker continued in possession of the boat. Affidavit of Randall L. Seaver, Ex. 2.

3. In February, 2009, Mr. Hecker was the registered joint owner of a 2007 Cobalt boat. He then caused documents to be delivered to appropriate state agencies transferring his interest in that boat to Northstate Financial Corporation. Again, Mr. Hecker continued in possession of the boat. Affidavit of Randall L. Seaver, Ex. 1.

After he had learned that the Trustee had discovered these deceptions, the Debtor filed an amended statement of financial affairs “disclosing” the transfers. The Trustee believes the only reason Mr. Hecker filed that amended statement of financial affairs is because he knew the Trustee had discovered his concealment of those transfers. If Mr. Hecker has unfettered access to information collected by the Trustee, he will simply tailor his testimony and future actions in accordance with the extent of the Trustee’s knowledge.

The Debtor has an obligation to truthfully and fully disclose all financial information. There should be no need for him to “monitor” the Trustee’s activities in order to ascertain what the Trustee is discovering about Mr. Hecker’s financial activities. Mr. Hecker has the knowledge of all of those activities and was required to disclose all of those activities. His desire and attempt to seek to “monitor” the Trustee’s activity is simply an attempt by him to stay abreast of the Trustee’s extensive activities so that he can act accordingly. This is certainly not the purpose of 11 U.S.C. §704(7).

Section 704(7) gives the court discretion to decide whether the trustee should furnish information concerning the estate to a party in interest. The exact language contained in §704(7)

states: "unless the court orders otherwise." One case has noted that:

. . . a trustee's right to a protective order under section 704(7) is informed by the trustee's fiduciary duties, because the requirement to disclose information under section 704(7) derives from a trustee's fiduciary duties to creditors and the estate. *In re Scott*, 172 F.3d 959, 967 (7th Cir. 1999); *In re Modern Office Supply, Inc.*, 28 B.R. 943, 944 (Bankr. W.D. Okla. 1983). If the request for such an order is not also in furtherance of those duties, but is, rather, designed to obtain an undue advantage over a party in interest, it should be denied. *Robert Landau*, 50 B.R. at 677. *To override the duty to disclose, a trustee should point to a countervailing fiduciary duty, such as to protect creditors and the estate from a particular harm, whose performance is more important than avoiding the harm resulting from withholding the information in question.*

In re Refco, Inc., 336 B.R. 187, 193, 194 (S.D. N.Y. 2006) (emphasis added).

The *Refco* court also noted that,

Bankruptcy Code section 107(a) provides for public access to all papers filed in a bankruptcy case, but subjects such access to the right to obtain an order preventing the disclosure of trade secrets, confidential research, development, or commercial information; protecting a person with respect to disclosure of scandalous or defamatory matter; and protecting individuals from disclosure of means of identification that would create undue risk of identity theft or other unlawful injury. 11 U.S.C. §107(b), (c).

Refco, at 193 n. 6.

In this case, the Trustee needs relief because he has been conducting a vast investigation collecting records from many parties about the Debtor's financial affairs, many of which are ongoing matters. The Trustees' investigation could be compromised if the Debtor or others could prematurely access the fruits of the Trustee's efforts.

CONCLUSION

The Trustee requests relief from this Court in accord with the proposed order served and filed herewith.

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: September 24, 2009

By: _____

Matthew R. Burton, #210018
100 South Fifth Street, Suite 2500
Minneapolis, Minnesota 55402
Telephone: (612) 332-1030
Facsimile: (612) 332-2740

ATTORNEYS FOR RANDALL L.
SEAVER, TRUSTEE

407507

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 09-50779

In re:

Dennis E. Hecker,

AFFIDAVIT OF RANDALL L. SEAVER

Debtor.

STATE OF MINNESOTA)

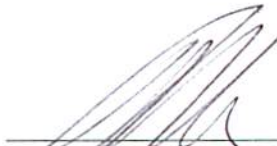
COUNTY OF DAKOTA)

Randall L. Seaver, being first duly sworn,

deposes and states as follows:

1. I am the Trustee in the above matter and have knowledge of the facts contained herein.
2. Attached hereto as Exhibit 1 is a true and correct copy of a letter and attachments from Andrea Hauser to Clinton Cutler dated July 27, 2009.
3. Attached hereto as Exhibit 2 is a true and correct copy of a letter and attachments from Andrea Hauser to Clinton Cutler dated July 29, 2009.
4. Attached hereto as Exhibit 3 is a true and correct copy of a letter and attachments from Andrea Hauser to Clinton Cutler dated August 3, 2009. (Account numbers on the check copy have been redacted.)
5. Attached hereto as Exhibit 4 is a true and correct copy of page 10 of the Amended Statement of Financial Affairs filed by the Debtor on September 1, 2009.

FURTHER YOUR AFFIANT SAYETH NOT.


Randall L. Seaver

Subscribed and sworn to before me
this 24 day of September 2009.


Notary Public



LEONARD, O'BRIEN
SPENCER, GALE & SAYRE

FILE COPY

Thomas W. Newcome**
Brian F. Leonard+
Eldon J. Spencer, Jr.+
Michael R. O'Brien‡
Edward W. Galet
Grover C. Sayre, III+
Thomas W. Newcome III*
Michelle McQuarrie Colton
Joseph J. Deuhs, Jr.
Thomas C. Atmore +
Ernest F. Peake
Matthew R. Burton+
James M. Jorissen+
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Attorneys at Law
A Professional Association

100 South Fifth Street
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Minneapolis, Minnesota 55402-1234
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Fax (612) 332-2740

Internet: www.losgs.com

July 27, 2009

Andrea M. Hauser*
Scott S. Payzant**
Jennifer K. Eggers+§
Jordan W. Sayre
Patrick J. Lindmark
Andrew J. Budish

Of Counsel
George B. Ingebrand, Jr.
Randall L. Seaver

- Also admitted in Arizona
- Also admitted in California
- Also admitted in Illinois
- Also admitted in Iowa
- § Also admitted in Montana
- + Also admitted in Wisconsin
- † Board Certified Civil Trial Specialist
(Minnesota State Bar Association and
National Board of Trial Advocacy)
- Certified Real Property Law Specialist
(Minnesota State Bar Association)
- ‡ Qualified Neutral (Rule 114)
- ** Retired Status

Clinton E. Cutler, Esq.
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

VIA FACSIMILE 612-492-7077
AND E-MAIL CCUTLER@FREDLAW.COM

Re: Dennis E. Hecker
BKY Case No. 09-50779

Dear Clint:


The Trustee has just discovered that a 2007 Cobalt, Title No. LJO480063, which was originally titled in the names of Rosedale Leasing, LLC and Dennis Earl Hecker, was purportedly transferred by Rosedale Leasing, LLC and Mr. Hecker to Northstate Financial Corp. when a title transfer document was delivered to the appropriate state office on February 17, 2009. A copy of the Certificate of Title, together with DNR information on this boat and transfer are enclosed with this correspondence. We will also e-mail this to you so you have better copies of the records.

Given the date of this undisclosed transfer by the Debtor, there is little doubt that this is an avoidable transfer. The Trustee demands that there be no use of the boat, or transfer of the boat or any interest in the boat pending resolution of the litigation that will be commenced to recover the transfer.

Very truly yours,

LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.

By


Andrea M. Hauser
Email: ahauser@losgs.com

AMH/slw
Enclosures
cc: Randall L. Seaver (via e-mail)
406315

EXHIBIT I

Production



Logout

3037KG
TITLED BOAT
 Expires: 12/31/2009
 Title Nbr: LJ0480063
 Title status: ACTIVE
[Remove Title](#)

11167871
 NORTHSTATE
 FINANCIAL CORP
 500 FORD RD
 MINNEAPOLIS MN 55426
 (952) 512-8800

CUSTOMER MENU
[Customer Info](#)
[Vehicle List](#)
[Customer Sales](#)
[New Registration](#)
[Other](#)

MAIN MENU
[Main Search Page](#)
[Reports](#)
[Order Supplies](#)
[Blank Title Apps](#)
[Boat Registration Procedures and Fees](#)
[User Admin](#)
[Printer Templates](#)
[Email DNR](#)
[Tier 1 Web Admin](#)
[Deputy Registrar Info](#)
[Return to Portal](#)

Info Renewal Transfer Title Functions Transfer to Same Owner Other

Reg Nbr: 3037KG **Expiration Date:** 12/31/2009
Title Nbr: LJ0480063 **Title Status:** ACTIVE
Current Owner: NORTHSTATE FINANCIAL CORP
Purchase Date: 09/15/2008 **Last Titled State and Reg Nbr:**
Year, Make, Model: 2007 COBALT 222
Hull ID: FGE11242A707 NOT QUESTIONABLE
Boat Length: 22ft 6in **Hull Material:** FIBERGLASS
Type: OPEN MOTORBOAT **Use:** PLEASURE
County Used: 27 HENNEPIN
Drive: INBOARD STERN **Propulsion:** PROPELLOR
Fuel: GASOLINE **HP1:** 0 **HP2:** 0
Distinctive: No **Bonded:** No
Send Title: No **Title Print Date:** 02/24/2009
Last Txn Type: TRANSFER **Last Txn Date:** 02/17/2009
Flag: NONE **Flag Change Date:**
Flag Description:

[Edit Vehicle Info](#) [Maint Log](#) [View Comments](#)

ADDITIONAL OWNERS							Manage
LIEN INFORMATION							Add New
REGISTRATION HISTORY							
Title Number	Open Date	Reg Thru	Status	Name	Owner Type		
LG2070037	07/26/2007	12/31/2009	PREVIOUS	ROSEDALE LEASING LLC	PRIMARY		view
LG2070037				DENNIS EARL HECKER	SECONDARY		
FILM INFORMATION							Add New
Name	Date	Reel Seq Nbr					
TITLE APPLICATION	02/26/2008	137002733					
MSO	03/03/2008	137002839					
TITLE	03/02/2009	137806298					

Version 1.0.0.0000
 7/23/2009 4:03 PM



STATE OF MINNESOTA CENTRAL FILE OFFICE TO THE PUBLIC



THIS TITLE IS PRIMA FACIE PROOF OF OWNERSHIP
KEEP IN A SAFE PLACE - ANY ALTERATION OR ERASURE VOIDS THIS TITLE

ROSEDALE LEASING LLC
500 FORD RD
MINNEAPOLIS MN 55426

LJ0480063
REGISTRATION NUMBER 1017K6
FILE NUMBER
62070037

01/17/2007

DATE ISSUED 2007 09 25

FILE NUMBER 1017K6
FGE1242A707

MAKE
CUMMINS
YEAR
2007
TYPE
OPEN MOTORCYCLE

EXPIRATION
0220 0000
MILEAGE
222

FILE MATERIAL
ELECTRIC GLASS

1. OWNER

0001 01 01
ROSEDALE LEASING LLC
500 FORD RD
MINNEAPOLIS MN 55426

2. OWNER

1052 06 19
DENNIS EARL DICKER
11700 CROSS AVE
CROSS LAKE MN 56447

I, THE MINNESOTA SECRETARY OF STATE, HEREBY CERTIFY THAT THIS MOTORCYCLE TITLE IS A VALID TITLE AS REQUIRED BY THE MINNESOTA MOTORCYCLE TITLE ACT.
WATERCRAFT & REGISTRATION FEE PAID TO *NorthStar Financial Services*

X *[Signature]*
X *[Signature]*
X *[Signature]*

NO SECURED PARTY LISTED

154904

APPLICATION FOR A WATERCRAFT

COMPLETION DATE

DATE OF BIRTH

NAME

DATE OF BIRTH

NAME

DATE OF BIRTH

NAME

DATE OF BIRTH

NAME

DATE OF BIRTH

NAME

DATE OF BIRTH

NAME

DATE OF BIRTH

NAME

DATE OF BIRTH

IS WATERCRAFT SUBJECT TO SECURITY AGREEMENT(S)?

NO

YES

IF YES, COMPLETE SECTION BELOW

NAME

NAME & DATE OF SECURITY AGREEMENT(S)

NAME

NAME & DATE OF SECURITY AGREEMENT(S)

NAME

NAME & DATE OF SECURITY AGREEMENT(S)

NAME

NAME & DATE OF SECURITY AGREEMENT(S)

IF THERE IS AN AGENCY, THE WATERCRAFT MUST BE REGISTERED WITH THE AGENCY. IF THE WATERCRAFT IS NOT REGISTERED WITH THE AGENCY, THE LICENSEE SHALL BE RESPONSIBLE FOR THE WATERCRAFT'S COMPLIANCE WITH THE AGENCY'S REQUIREMENTS.

IF THE WATERCRAFT IS NOT REGISTERED WITH THE AGENCY, THE LICENSEE SHALL BE RESPONSIBLE FOR THE WATERCRAFT'S COMPLIANCE WITH THE AGENCY'S REQUIREMENTS.

SIGNATURE OF APPLICANT

Signature Dodge Co.

DATE

9/15/08

EXPIRATION DATE

9/15/12-8800

X

X

X

REASSIGNMENT BY A DEALER

THE LICENSEE SHALL BE RESPONSIBLE FOR THE WATERCRAFT'S COMPLIANCE WITH THE AGENCY'S REQUIREMENTS. IF THE WATERCRAFT IS NOT REGISTERED WITH THE AGENCY, THE LICENSEE SHALL BE RESPONSIBLE FOR THE WATERCRAFT'S COMPLIANCE WITH THE AGENCY'S REQUIREMENTS.

DATE OF BIRTH

PAID

FL0170

DEALER SIGNATURE

DEALER NAME AND ADDRESS

EXPIRATION DATE

TOTAL

17.00

THIS CERTIFICATE ISSUED BY THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES LICENSE BUREAU • 808 LAFAYETTE ROAD, BOX 26 • ST. PAUL, MN 55155-0026

LEONARD, O'BRIEN
SPENCER, GALE & SAYRE **FILE COPY**

Thomas W. Newcome**
Brian F. Leonard+
Eldon J. Spencer, Jr.+
Michael R. O'Brien‡
Edward W. Galet
Grover C. Sayre, III+
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July 29, 2009

Clinton E. Cutler, Esq.
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

VIA FACSIMILE 612-492-7077
AND E-MAIL CCUTLER@FREDLAW.COM

Re: Dennis E. Hecker
BKY Case No. 09-50779

Dear Mr. Cutler:

The Trustee has just discovered that a 2008 Mailbu Wakesetter 23 Boat, Title No. LJO480051, which was originally titled in the names of Rosedale Leasing, LLC and Dennis Earl Hecker, was purportedly transferred by Rosedale Leasing, LLC and Mr. Hecker to Northstate Financial Corp. when a title transfer document was delivered to the appropriate state office on February 17, 2009. A copy of the Certificate of Title, together with DNR information on this boat and transfer are enclosed with this correspondence. We will also e-mail this to you so you have better copies of the records.

Given the date of this undisclosed transfer by the Debtor, there is little doubt that this is an avoidable transfer. The Trustee demands that there be no use of the boat, or transfer of the boat or any interest in the boat pending resolution of the litigation that will be commenced to recover the transfer.

Very truly yours,

LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.

By



Andrea M. Hauser

Email: ahauser@losgs.com

AMH/slw
Enclosures
cc: Randall L. Seaver (via e-mail)
406511

Andrea M. Hauser*
Scott S. Payzant**
Jennifer K. Eggers+§
Jordan W. Sayre
Patrick J. Lindmark
Andrew J. Budish
Of Counsel
George B. Ingebrand, Jr.
Randall L. Seaver
* Also admitted in Arizona
~ Also admitted in California
* Also admitted in Illinois
^ Also admitted in Iowa
§ Also admitted in Montana
+ Also admitted in Wisconsin
† Board Certified Civil Trial Specialist
(Minnesota State Bar Association and
National Board of Trial Advocacy)
• Certified Real Property Law Specialist
(Minnesota State Bar Association)
‡ Qualified Neutral (Rule 114)
** Retired Status

EXHIBIT 2

Manufacturer's Statement of Origin

The undersigned corporation certifies that the new boat described below, the property of Malibu Boats, LLC, has been manufactured on 09/07/2007 at #127607 by Minnesota Inboard Water Sports, Inc., 140 Hwy 7, Excelsior, MN 55331 USA. The make/model of the boat is Malibu/Wakesetter 23 LSV. The hull identification number is US MH2S716711200. Model year 2008. Date built 08/20/2007. Length 23'. Engine Manufacturer Indmar. Engine Horsepower 400. Hull material is Fiberglass. Type of propulsion Inboard. The motor serial #142672. Malibu Boats, LLC further certifies that this was the first time this boat was built in ordinary trade and commerce.

Malibu Boats, LLC
One Malibu Court
Merced, CA 95340 USA

Barry Cooney
Title: GENERAL MANAGER

First Assignment

For value received, the undersigned hereby transfers, the statement of origin and the boat described therein to *Ronald Leasing, LLC and Leasing, Inc.* whose address is:

500 Ford Rd Nipmunn, MA 01860

and certifies that the boat is new and has not been registered in this or any other state; he also warrants the title of said boat at time of sale, subject to the liens and encumbrances, if any, as follows: Amount of lien _____ Date _____ To whom due _____

transferred at

Henrietta, NY
Midway, NY

Date of transfer *6/11/08*
To: *By signature and title*
of transferee

Before me personally appeared _____ who by me being duly sworn upon oath, depose that the statements set forth above are true and correct. Subscribed and sworn before me this _____ day of _____, 20____.

Notary public

Date commission expires _____

Second Assignment

For value received, the undersigned hereby transfers, the statement of origin and the boat described therein to _____ whose address is _____

and certifies that the boat is new and has not been registered in this or any other state; he also warrants the title of said boat at time of sale, subject to the liens and encumbrances, if any, as follows: Amount of lien _____ Date _____ To whom due _____

transferred at _____

Date of transfer _____
To: *By signature and title*
of transferee

Before me personally appeared _____ who by me being duly sworn upon oath, depose that the statements set forth above are true and correct. Subscribed and sworn before me this _____ day of _____, 20____.

Notary public

Date commission expires _____

Production



9177KJ
TITLED BOAT
Expires: 12/31/2010
Title Nbr: LJ0480051
Title status: ACTIVE
[Remove Title](#)

11167871
NORTHSTATE
FINANCIAL CORP
500 FORD RD
MINNEAPOLIS MN 55426
(952) 512-8800

CUSTOMER MENU
Customer Info
Vehicle List
Customer Sales
New Registration
Other

MAIN MENU

Main Search Page
Reports
Order Supplies
Blank Title Apps
Boat Registration
Procedures and Fees
User Admin
Printer Templates
Email DNR
Tier 1 Web Admin
Deputy Registrar Info
Return to Portal

Info Renewal Transfer Title Functions Transfer to Same Owner Other

Reg Nbr: 9177KJ
Title Nbr: LJ0480051
Current Owner: NORTHSTATE FINANCIAL CORP
Purchase Date: 09/15/2008
Year, Make, Model: 2008 MALIBU WAKESSETTER 23
Hull ID: MB2S7167H708 NOT QUESTIONABLE
Boat Length: 23ft 0in
Type: OPEN MOTORBOAT
County Used: 27 HENNEPIN
Drive: INBOARD
Fuel: GASOLINE
Distinctive: No
Send Title: No
Last Txn Type: TRANSFER
Flag: NONE
Flag Description:

Expiration Date: 12/31/2010
Title Status: ACTIVE
Last Titled State and Reg Nbr:
Hull Material: FIBERGLASS
Use: PLEASURE
Propulsion: PROPELLOR
HP1: 0 HP2: 0
Bonded: No
Title Print Date: 02/24/2009
Last Txn Date: 02/17/2009
Flag Change Date:



ADDITIONAL OWNERS							Manage
LIEN INFORMATION							Add New
REGISTRATION HISTORY							
Title Number	Open Date	Reg Thru	Status	Name	Owner Type		
LH1820177	06/30/2008	12/31/2010	PREVIOUS	ROSEDALE LEASING LLC	PRIMARY		view
LH1820177				DENNY HECKER	SECONDARY		
FILM INFORMATION							
Add New							
Name	Date	Reel Seq Nbr					
TITLE APP	09/15/2008	137402968					
MSO	09/12/2008	137404679					
TITLE	03/02/2009	137806299					

Version 1.0.0.0000
7/28/2009 8:35 AM

LEONARD, O'BRIEN
SPENCER, GALE & SAYRE

FILE COPY

Thomas W. Newcome**
Brian F. Leonard+
Eldon J. Spencer, Jr.+
Michael R. O'Brien+
Edward W. Galet
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Thomas W. Newcome III*
Michelle McQuarrie Colton
Joseph J. Deuhs, Jr.
Thomas C. Atmore +
Ernest F. Peake
Matthew R. Burton+
James M. Jorissen+
Peter J. Sajeve, III+

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Internet: www.losgs.com

August 3, 2009

Andrea M. Hauser*
Scott S. Payzant**
Jennifer K. Eggers+
Jordan W. Sayre
Patrick J. Lindmark
Andrew J. Budish

Of Counsel
George B. Ingebrand, Jr.
Randall L. Seaver
+ Also admitted in Arizona
* Also admitted in California
* Also admitted in Illinois
+ Also admitted in Iowa
+ Also admitted in Montana
+ Also admitted in Wisconsin
† Board Certified Civil Trial Specialist
(Minnesota State Bar Association and
National Board of Trial Advocacy)
* Certified Real Property Law Specialist
(Minnesota State Bar Association)
‡ Qualified Neutral (Rule 114)
** Retired Status

Clinton E. Cutler, Esq.
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

VIA FACSIMILE 612-492-7077
AND E-MAIL CCUTLER@FREDLAW.COM

Re: Dennis E. Hecker, BKY Case No. 09-50779
2008 Harley Davidson Motorcycle, VIN 1HD1PS8148K977133

Dear Mr. Cutler:

The Trustee has just discovered that Mr. Hecker purchased a 2008 Harley Davidson Motorcycle, Model FXDSE2, VIN 1HD1PS8148K977133, on November 28, 2008 from Twin Cities Harley Davidson, Inc. for \$23,590.00. The Motorcycle is titled in the name of Northstate Financial Corporation. I am enclosing a copy of Mr. Hecker's personal check for \$23,590.00 made payable to Wild Prairie Harley, the purchase agreement, and the motorcycle's Certificate of Origin. We will also e-mail this to you so you have better copies of the records.

Given the date of this undisclosed transfer by the Debtor, there is little doubt that this is an avoidable transfer. The Trustee demands that there be no use of the motorcycle, or transfer of the motorcycle, or any interest in the motorcycle pending resolution of the litigation that will be commenced to recover the transfer.

Very truly yours,

LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.

By



Andrea M. Hauser

Email: ahauser@losgs.com

AMH/slW
Enclosures
cc: Randall L. Seaver (via e-mail)
406687

EXHIBIT 3



WILD PRAIRIE HARLEY-DAVIDSON/BUELL
12480 Plaza Drive • EDEN PRAIRIE, MN 55344
PH: (952) 698-5000 • FAX: (952) 698-6004 • www.wildprairiehd.com



Stock #: 0904353VBS Date: 11/28/2008 Salesperson: BILL B SIGHEL
Buyer Name: (Last) NORTHSTATE (First) FINANCIAL (Middle) _____
Co-Buyer Name: (Last) _____ (First) _____ (Middle) _____
Address: 500 FORD ROAD City: MINNEAPOLIS State: MN County: _____ Zip: 55426
Home Phone: _____ Bus. Phone: _____ Buyer DOB: _____ Co-Buyer DOB: _____
Buyer D.L.#: _____ Co-Buyer D.L.#: _____
Buyers Insurance Co.: _____ Policy #: _____

PLEASE ENTER MY ORDER FOR: New ☐ Used ☐ Demo ☐ Lienholder ☐ Address _____

YEAR	MAKE	MODEL	BODY	TRANSMISSION	COLOR	INTERIOR
2008	HD	FYDSE3	MC		061 COBALT	
VIN# <u>1HBM1PSS148K077133</u>						DELIVERED ON OR ABOUT <u>11/28/2008</u>
LIC # _____						MILEAGE <u>10</u>

OTHER CHARGES:		CASH PRICE OF VEHICLE	23,590.00
USED H.O.G. MEMBER		FREIGHT	N/A
N/A		DEALER INSTALLED OPTIONS	N/A
		XXXXXXXXXXXXXXXXXXXXXXX SET UP	N/A
		ACCESSORIES	359.80
		LABOR	359.80
		SUBTOTAL BEFORE TRADE	23,590.00
		MVP	N/A
		EXTENDED SERVICE PLAN	N/A
TOTAL		GAP	N/A

TRADE-IN DATA				PREPAID MAINTENANCE	N/A
YEAR	MAKE	MODEL	BODY STYLE	PREPAID WORK ORDER	N/A
2008			MC	GIFT CARD	N/A
LIEN HOLDERS NAME _____				DEBT PROTECTION	N/A
ADDRESS _____				CREDIT LIFE/AH	N/A
LICENSE PLATE # _____		LICENSE STATE _____	EXP. DATE _____	OTHER CHARGES	N/A
VEHICLE MAKE _____		TRANSMISSION _____		MONEY ON ACCOUNT	N/A
VEHICLE MAKE _____		TRANSMISSION _____		TOTAL	23,590.00

POLLUTION CONTROL SYSTEM DISCLOSURE (TRADE-IN VEHICLE)

In order to comply with Minnesota Statutes, Section 325E.0951, no person may transfer a motor vehicle without providing a written disclosure to the transferee (buyer) certifying the condition of the pollution control system.

Transferor (seller) hereby certifies, to the best of his/her knowledge, that the pollution control systems on this vehicle being traded in, including the restricted gasoline fuel system, have not been removed, altered, or rendered inoperative.

Seller's Signature: [Signature]

DEALER'S DISCLAIMER OF WARRANTY

The Dealer expressly disclaims all warranties, either express or implied on the vehicle sold, except any warranties offered and explained in Paragraph 16 on the back of this contract. Buyer acknowledges receiving this information before the sale and further acknowledges having read and understood the provisions on the back of the contract.

Buyer's Signature: [Signature]

DEALER'S POLLUTION CONTROL SYSTEM DISCLOSURE (VEHICLE BEING SOLD)

Transferor (Dealer) hereby certifies, to the best of his/her knowledge, that the pollution control systems on this vehicle being sold, including the restricted gasoline fuel system, have not been removed, altered, or rendered inoperative.

LESS TRADE-IN ALLOWANCE FOR USED VEHICLE		N/A
LICENSE PLATE	N/A	SUBTOTAL
TITLE FEES	N/A	23,590.00
TRANSFER FEES	N/A	TRADE DIFFERENCE
LIEN RECORDING FEE	N/A	N/A
OPTIONAL ELECTRONIC TRANSFER FEE	N/A	STATE & LOCAL TAXES
TOTAL	N/A	N/A
TOTAL LICENSE & FEES	N/A	FEDERAL LUXURY TAX
CASH SUBMITTED WITH ORDER	N/A	DOCUMENT ADMINISTRATIVE FEE
LESS BALANCE OWING TO LIENHOLDER ON TRADE-IN	N/A	SERVICE CONTRACT
TOTAL DOWN PAYMENT	N/A	N/A
TOTAL AMOUNT DUE ON DELIVERY		23,590.00

IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.

BUYER SIGNS X [Signature] DATE 11/28/2008

CO-BUYER SIGNS X _____ DATE _____

Buyer agrees that this Agreement includes all of the terms and conditions on the front and back side hereof, that this Agreement cancels and supersedes any prior agreement including oral agreements, and as of the date below comprises, with any retail installment sale contract, the complete and exclusive statement of the terms of the agreement relating to

5208

17-0/10 0065093 142108 DATE

DENNIS E. HECKER
540 FORD RD.
MIDLAND POLIS, MO 64583

Wild Prairie Harley
Wendy Treathon
PAY TO THE ORDER OF

usbank
The New Service Connection

Private Client Group

Shubie

MEMO

150910000221: 5208

PAY TO THE ORDER OF
WELLS FARGO BANK MN. N.A.

FOR DEPOSIT ONLY
WILD PRAIRIE MOTORSPORTS, INC

R/T Number	20081204
Sequence Number	23580.00
Account Number	0000000000000000

[REDACTED]

11

[REDACTED]

Buyer agrees that this Agreement includes all of the terms and conditions on the front and back side hereof, that this Agreement cancels and supersedes any prior agreement including oral agreements, and as of the date below comprises, with any retail installment sale contract, the complete and exclusive statement of the terms of the agreement relating to the subject matters covered by this Agreement. Buyer, by signing this Agreement, acknowledges that he has read its terms and has received a true copy of this Agreement.

If Buyer is buying the Vehicle for cash (this includes a Buyer arranging Buyer's own financing from a party other than Dealer), this Agreement is not binding upon either Dealer or Buyer until signed by an authorized Dealer representative.

If Buyer is buying the Vehicle in a credit sale transaction with Dealer evidenced by a signed retail installment sale contract, this Agreement is binding when the retail installment sale contract is signed, but will not remain binding if a third party finance source does not agree to purchase the retail installment sale contract executed by Buyer and Dealer based on this Agreement. See paragraph 13 on the other side of this Agreement.

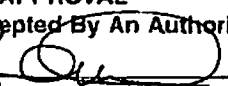
BUYER HAS READ ALL PAGES OF THIS AGREEMENT AND AGREES TO ALL TERMS AND CONDITIONS IN THIS AGREEMENT.

BUYER SIGNS X  DATE 11/28/2008

CO-BUYER SIGNS X _____ DATE _____

MANAGER'S APPROVAL

(Must Be Accepted By An Authorized Representative of the Dealer)

X  DATE 11/28/2008

This ODOMETER DISCLOSURE STATEMENT and ASSIGNMENT Refers to Vehicle Being Sold

Minnesota and State law require that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

I, WILD PRAIRIE HARLEY-DAVIDSON, the owner(s) of the vehicle described below, certify the vehicle is free of all security interests.

Current title, assign the vehicle and taxes paid to the person(s) named below and state that the odometer now reads 16 (no tenths) miles and to the best of my knowledge

and reflects the actual mileage of the vehicle, unless one of the following statements is checked.

☐ (1) I hereby certify to the best of my knowledge this odometer reading reflects the amount of mileage in excess of its mechanical limits.

☒ (2) I hereby certify that the odometer reading is NOT the actual mileage.

WARNING -- ODOMETER DISCREPANCY if box (1) or (2) is checked.

YEAR	MAKE	MODEL	BODY TYPE
2008	HD	FXDSE2	
TRANSFEREE'S NAME <u>FINANCIAL NORTHSTATE</u>		LIC. EXP. DATE	
TRANSFEREE'S ADDRESS <u>500 FORD ROAD</u>		CITY <u>WILD PRAIRIE</u> STATE <u>MN</u> ZIP <u>55344</u>	
CITY <u>WILD PRAIRIE</u> STATE <u>MN</u> ZIP <u>55344</u>		TRANSFEROR'S (SELLER) STREET ADDRESS	
TRANSFEROR'S (SELLER) STREET ADDRESS		TRANSFEROR'S (SELLER) CITY	
TRANSFEROR'S (SELLER) CITY		TRANSFEROR'S (SELLER) STATE	
TRANSFEROR'S (SELLER) STATE		TRANSFEROR'S (SELLER) ZIP	
TRANSFEROR'S (SELLER) ZIP		TRANSFEROR'S (SELLER) SIGNATURE	
TRANSFEROR'S (SELLER) SIGNATURE		STATEMENT DATE	

NH0035

CERTIFICATE OF ORIGIN FOR A VEHICLE

HARLEY-DAVIDSON

DATE **05/29/08** INVOICE NO **0904353VE8**
VEHICLE IDENTIFICATION NO **1HD1PS8148K977133** YEAR **2008** MAKE **HARLEY-DAVIDSON**
BODY TYPE **MOTORCYCLE** SHIPPING WEIGHT **678.00**
HP (SAE) **12.80** GVWR **2** NO CYLS **2** SERIES OR MODEL **2008 FXDSE2 DOM**
ENGINE NUMBER * **PS88977133***

I, the undersigned authorized representative of the company, firm or corporation named below, hereby certify that the new vehicle described above is the property of the said company, firm or corporation and is transferred on the above date and under the Invoice Number indicated to the following distributor or dealer.

NAME OF DISTRIBUTOR, DEALER, ETC

TWIN CITIES HARLEY-DAVIDSON, INC.
DBA TWIN CITIES HARLEY-DAVIDSON NORTH
1441 85TH AVENUE N.E.
BLAINE, MN 55449

It is further certified that this was the first transfer of such new vehicle in ordinary trade and commerce.



HD3317699

HARLEY-DAVIDSON MOTOR COMPANY

BY *James A. Brantley*
(SIGNATURE OF AUTHORIZED REPRESENTATIVE) (AGENT)

MILWAUKEE, WISCONSIN

CITY - STATE

WILD PRAIRIE H-D
12480 PLAZA DR. EDEL PRAIRIE, MN 55344
TCHD Unit DL#2067
MINNESOTA
ANOKE
ID
B. Schmitt
WILD PRAIRIE HARLEY-DAVIDSON DLR #36365
MINNESOTA
HENNEPIN

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
Venture Bank 5601 Green Valley Dr Suite 120 Bloomington, MN 55437	February 2009	Stock in Venture Bank exchanged for reduction in debt.
U.S. Bank BC-MN-H22A 800 Nicollet Mall, 22nd Floor Minneapolis, MN 55402	2009	Grant of 2nd position mortgages on Bayport, Minnesota condominiums and residence at 1492 Hunter Dr., Medina, Minnesota; pledges of LLC membership interests in exchange for pledged assets from LLC for funds lent to debtor.
Crown Bank 6600 France Ave S Ste 125 Edina, MN 55435	January 2009	Grant of security interests in Bayport, MN boat slips.
Bremer Bank 633 S Concord St Ste 350 South St. Paul, MN 55075	February 2009	Return of bank stock granted to debtor as director, \$2,000 in value.
JC Bromac 11860 S La Cienega Blvd Los Angeles, CA 90250	April 2009	Release of causes of action against officers and directors in exchange for 90-day renewal of \$1,000,000 promissory note.
TCF National Bank 801 Marquette Ave Minneapolis, MN 55402	6/3/2009	Deeds in lieu and voluntary surrender agreement with respect to personal residences of debtor owned by Jacob Holdings of Medina, LLC and Jacob Holdings of Aspen, LLC
<u>Northstate Financial Corp</u> <u>500 Ford Rd</u> <u>Minneapolis, MN 55426</u>	<u>11/28/07</u>	<u>Harley Davidson Motorcycle - \$23,590</u>
<u>Northstate Financial Corp</u> <u>500 Ford Rd</u> <u>Minneapolis, MN 55426</u>	<u>February 2009</u>	<u>2008 Malibu Wavesetter 23 boat - title transferred to Northstate Financial</u>
<u>Northstate Financial Corp</u> <u>500 Ford Rd</u> <u>Minneapolis, MN 55426</u>	<u>February 2009</u>	<u>2007 Cobalt 220 boat - title transferred to Northstate Financial</u>
<u>Hecker, Tamitha</u> <u>1492 Hunter Dr</u> <u>Wayzata, MN 55391</u> <u>Wife</u>	<u>within two years of petition date</u>	<u>\$17,000.00 check 6/3/2009; \$100,000 cash 12/3/2008; \$454,817.41 miscellaneous credit card charges 6/4/2007 - 6/3/2009; other cash of at least \$100,000.</u>

☒ b. List all property transferred by the debtor within ten years immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY
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11. Closed financial accounts

☐ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
Lakes State Bank	Checking	\$0.00

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 09-50779

In re:

Chapter 7

Dennis E. Hecker,

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2009, I caused the following documents:

Notice of Hearing and Motion for Protective Order, Memorandum in Support of Motion Pursuant to 11 U.S.C. §107 and 704, Affidavit of Randall L. Seaver, Trustee and Order (proposed)

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be faxed and/or mailed by first class mail, postage paid, to the following:

Dennis E. Hecker
P.O. Box 1017
Crosslake, MN 56442

Michael B. Lubic
Sonnenschein Nath & Rosenthal LLP
601 S Figueroa St Ste 2500
Los Angeles, CA 90017-5704
Fax No.: 213-623-9924

Nicholas N. Nierengarten
Gray, Plant, Mooty & Bennett
80 South Eighth Street, Suite 500
Minneapolis, MN 55402
Fax No.: 612-632-4444

Michael W. Malter
Binder & Malter LLP
2775 Park Avenue
Santa Clara, CA 95050
Fax No.: 408-295-1531

/e/ Stephanie Wood

Dated: September 24, 2009

Stephanie Wood
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Dennis E. Hecker,

BKY No. 09-50779

Debtor.

ORDER

This case is before the Court on the motion of Randall L. Seaver, Chapter 7 Trustee (“**Trustee**”), for a protective order. Upon the motion and the files,

IT IS HEREBY ORDERED:

1. The Trustee is not required by 11 U.S.C. §704(7) to the Debtor or any interested party, records and information received by the Trustee without further order of this Court; and

BY THE COURT:

Dated: _____

Robert J. Kressel
U.S. Bankruptcy Judge